

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA

- against -

CHERYL O'CONNOR,

Defendant.

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JOHN G. KOELTL, District Judge:

13 Cr. 288 (JGK)

MEMORANDUM OPINION AND  
ORDER

At the sentencing hearing on July 31, 2015, the Court "impose[d] 12 months' home confinement as a condition of probation." Sentencing Tr., July 31, 2015, ECF. No. 36, at 22; see also id. at 23, 25. But the written judgment filed on August 28, 2015 stated that the "[t]he defendant shall comply with the conditions of home confinement for a period of six (6) months." Judgment in a Criminal Case, Aug. 28, 2015, ECF No. 35, at 2a.

"Where the sentencing court's oral pronouncement conflicts with the subsequent written judgment, it is the oral sentence that controls." Charon v. United States, No. 96CR586PKL, 2000 WL 1218372, at \*7 (S.D.N.Y. Aug. 28, 2000) (citing United States v. Werber, 51 F.3d 342, 347 (2d Cir. 1995)).

Pursuant to Rule 36 of the Federal Rules of Criminal Procedure, the clerical error in the judgment should be corrected to conform the judgment to the oral pronouncement of the sentence. See id. at \*7 (citing United States v. Mayer, 235

U.S. 55, 67 (1914) and United States v. Burd, 86 F.3d 285, 288 (2d Cir. 1996)).

The Court directs that the "Judgment in a Criminal Case" filed in this case on August 28, 2015 be amended to reflect the accurate period of home confinement of 12 months instead of six. See Fed. R. Crim. P. 36.

This Order is stayed until Friday, September 18, 2015 to allow the parties to file any objections to this Order.

**SO ORDERED.**

**Dated: New York, New York  
September 11, 2015**

\_\_\_\_\_/s/\_\_\_\_\_  
**John G. Koeltl**  
**United States District Judge**